

ELEMENT 5: INTERNAL REVIEWS

An internal review program to verify compliance with the firm's Export Management System and the Export Administration Regulations.

OBJECTIVE: To ensure compliance at all the firm's export-related locations with the firm's EMS and the EAR.

PROCEDURE: For firms adopting an EMS, it is recommended that a person be designated in the EMS as responsible for conducting the internal systems reviews at the firm's site(s). The individual should be qualified to conduct such reviews. At large and medium-sized firms, it is beneficial to have the reviewer be from an area outside the day-to-day export operations. This person will be responsible for scheduling reviews and developing an adequate procedure for conducting the review.

The internal systems review program may consist of the following:

EMS Documentation

The reviewer should verify that all applicable documents are maintained and evaluate these documents to determine whether such documents verify the firm's compliance with the EAR requirements. For example:

- a management policy statement that is adequate and up-to-date.
- the EMS procedures are formalized in a written manual. The review process should evaluate the actual operation of the EMS procedures to determine whether in practice the implementation of the operational program parallels the written EMS manual.
- all EMS communications regarding compliance with the EAR provisions are accessible.
- attendance at training programs is being documented.

Documentation Maintenance

The reviewer should determine that all applicable documents are maintained and should evaluate the documents to determine compliance with the EAR requirements. Refer to the Recordkeeping Element (Administrative Element 3) for a complete list of all required documents and their relevant EAR citations.

Export Transaction Records

The reviewer should verify which records are maintained and evaluate whether these documents are in compliance with the EAR requirements (e.g., purchase orders, commercial invoices, SEDs, Air Waybills, etc.). The reviewer need only examine a representative sampling.

Order Processing Checks

The reviewer should determine, via a representative sampling, whether the following records are maintained:

- documentation of the completion, results, date and person responsible for export control screening (See optional Screening Elements).
- documentation that the product/license matrix has been furnished to the party responsible for order processing (proper item classifications).
- written procedures for processing orders which demonstrate that correct export authorizations were used.

In an internal systems review, the reviewer can use the following techniques:

- ◆ flow charting the order processing system
- ◆ interviewing export-related personnel
- ◆ inspecting all required export-related documents
- ◆ analyzing sample transactions
- ◆ verifying completion of the export control checks
- ◆ reviewing the EMS and procedures manuals
- ◆ reviewing the firm's training programs and review procedures

Written Internal Systems Review Reports

The reviewer should write a report of each internal review. The report should include a description of the review process used, and the results of the review. Appropriate managers should be notified of the results of the review and corrective actions needed. The reviewer should prepare written confirmation of follow-up and corrective actions taken as a result of the review.

Frequency and Reporting of Internal Systems Reviews

The exporter should complete an internal systems review of its own EMS annually. Throughout the year, spot checks and informal reviews may be performed to verify accuracy of work and validity of the procedures. These spot checks and reviews should be documented periodically.

COMMENTS: To avoid conflict of interest, an effort should be made to use a person not involved in sales or the daily export functions to perform quality control assessments. In larger

companies, the internal review staff should be independent of and not report to parties with

export promotion or marketing responsibilities. In the event a conflict of interest is unavoidable, the internal review should be conducted as objectively as possible using written review procedures. The review procedures should also be as comprehensive as possible.

The review checklist need only examine compliance with the elements adopted in a firm's customized EMS. For example, if a firm decides it is not necessary to adopt a sensitive nuclear screen or a chemical/biological weapons screen, then it is not necessary to review these in an internal review. However, a firm may decide during the course of a review to reevaluate its decision not to include those screens in its EMS. It is recommended that if specific screens are deemed unnecessary, this decision should be documented with rationale.

A sample of a review module is available in hard copy, on disk, or can be e-mailed upon request to the Special Licensing and Compliance Division (SLCD).

